

### REMARKS

Claims 18-29 and 42 -47 are pending in the application. Claims 18, 24 and 27 have been amended. Previously withheld claims 1-17 and 30-41 have been canceled without prejudice or disclaimer, Applicant reserving the right to file a divisional application therefor. Reconsideration of this application is respectfully requested.

The amendments to claims 18 and 24 are discussed below and were made at the suggestion of the Examiner during the May 9, 2003 interview. Claim 27 has been amended at line 1 by changing "method" to "memory media" to correct and antecedent issue. Since these modifications are simple clarifications of the previously recited steps of the claims, Applicant respectfully submits that such amendments do not require any additional searching.

Applicant appreciates the Examiner conducting an in-office interview on May 9, 2003 with Applicant and his attorney. During the interview, the discussion concerned the meanings of population chart and of histogram, the proper combination of references, the differences in filter passes of the present invention and the lack of any such filter passes in the prior art of record was discussed in detail. The Examiner agreed that the plurality of filter passes recited in the claims of the present invention is different from the prior art and provided suggested modifications of the claims to clarify the point.

The Office Action rejects claims 18-21, 24-27, 42 and 44-47 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,774,878 to Marshall, hereafter Marshall.

As noted in the Amendment of December 23, 2002, Marshall lacks steps (b) and (c) of claims 18 and 24. Step (b) clearly recites that the proposed filter

condition includes the at least one investment parameter selected by the user for the  $i^{\text{th}}$  filter pass as well as all filter conditions for previously performed ones of the filter passes that the population chart presented for the  $i^{\text{th}}$  filter pass differs from the population chart presented for the  $i^{\text{th}} - 1$  filter pass. Marshall teaches only a single filter pass with up to five selection criteria that defines a virtual reality environment. Step (d) requires that steps (a), (b) and (c) be repeated until the  $n^{\text{th}}$  filter pass has been performed. Marshall, having a single filter pass, also lacks step (d).

During the interview, Applicant's attorney contended that the language of claim 18 does indeed articulate the filter passes of the present invention so as to distinguish from Marshall. Claims 18 and 24 in step (b) clearly state that a population chart is presented on the viewing screen for the  $i^{\text{th}}$  filter pass of a plurality of  $n$  filter passes and in step (d) that step (b) is repeated until the  $n^{\text{th}}$  filter pass has been performed. That is, step (b) presents a population chart for each filter pass upon which the newly defined filter condition for the pass is applied. This provides the user with an interactive method for continually refining the population in the modified population chart until an acceptable number of financial instruments are presented in a modified population chart. In contrast, Marshall teaches only a single filter pass of the incoming data, which is fed to a configuration file and then to a virtual reality generator to create a non-modifiable series of metaphors for use in the virtual reality environment.

Claims 18 and 24 in step (b) further state that the proposed filter condition includes at least one investment parameter selected by the user in step (a) for the  $i^{\text{th}}$  filter pass and all of the filter conditions for previously performed ones of the filter passes. That is, the proposed filter pass includes not only the step (a) selected investment parameter for the  $i^{\text{th}}$  filter pass but also includes all the filter conditions for the previously performed filter passes. In contrast, Marshall

teaches only a single filter pass and neither describes nor suggests any method of using multiple filter passes to continuously refine the financial instruments that make up the metaphors used in the virtual reality generator.

It is believed for at least the reasons set forth above that claims 18 and 24 do distinguish from Marshall. However, claims 18 and 24 have been further amended to more particularly point out and define that which Applicant claims as his invention. Thus, claims 18 and 24, as amended, recite that the population chart presented for the  $i^{\text{th}}$  filter pass differs from the population chart presented for the  $i^{\text{th}} - 1$  filter pass.

With respect to claim 42, Marshall does not teach presenting a histogram that includes a plurality of frequency of occurrence groupings of an investment parameter. The Office Action contends that Marshall's Figures 3a-3d show a histogram. Marshall's Figures 3a-3d do not show a histogram as claimed in claim 42. For example, claim 42 recites that the groupings are frequency of occurrence groupings. Marshall's Figures 3a-3d depict a screen display generated by the virtual reality generator 4. The icon or metaphor arrangement shown in Figures 3a-3d has nothing to do with frequency of occurrence as recited by claim 42.

Claim 47 recites in step (b) that based on a selection of one or more filter parameters defining a first filter pass, presenting concurrently with the filter parameters a preview of the first filter pass. Marshall lacks presentation of a preview of any filter pass. Claim 47 further recites in step (c) that the first filter pass is performed in response to a user command after the preview is presented to the user. Marshall lacks a preview and, therefore, lacks step (c). Claim 47 recites in step (d) that steps (b) and (c) are repeated for a second filter pass. Marshall has no second filter pass and describes only a single filter pass having multiple criteria.

For the reason set forth above, it is submitted that the rejection of independent claims 18, 24 and 42 and their respective dependent claims and of independent claim 47 under 35 U.S.C. 102(b) as anticipated by Marshall is inapplicable and should be withdrawn.

The Office Action rejects claims 22, 23, 28, 29 and 43 under 35 U.S.C. 103(a) as unpatentable over Marshall, as applied to claims 21, 27 and 42, in view of U.S. Patent No. 5,918,217 to Maggioncalda et al., hereafter Maggioncalda.

The Office Action alleges that Marshall shows all of the limitations of claims except for specifying that the parameter and the histogram are displayed on the same screen. This allegation is erroneous because Marshall does not teach making multiple filter passes (base claims 18, 24 and 42) or histograms (intervening claim 19 and base claim 42), from which claims 22, 23, 28, 29 and 42 depend, as noted above in the discussion of the rejection under 35 U.S.C. 102 (b). Maggioncalda does not teach these features. Accordingly, for this reason, the conclusion of obviousness is inapplicable to claims 22, 23, 28, 29 and 43.

The Office Action concedes that Marshall does not teach displaying the parameter limiter and the histogram on the same screen. The demonstration by Applicant during the interview clearly demonstrated this very unique feature. The Office Action states that Maggioncalda teaches (Figure 4) a user interface for a financial advisory system where the filter conditions are on the same screen as the resultant bar graph to provide the ease of seeing both without flipping from screen to screen. The Office Action then concludes that it would have been obvious to modify Marshall's virtual reality generator to provide the user interface module on the same viewing screen as the population chart in order to provide the ease of seeing both without flipping from screen to screen.

This conclusion of obviousness is erroneous. There is no suggestion or motivation for one of ordinary skill in the art to modify Marshall's virtual reality generator with a screen similar to that shown in Maggioncalda's Figure 4. Marshall and Maggioncalda are directed to entirely different systems and to non-analogous arts. Marshall discloses a user specified virtual reality generator with a capability to do a single filter pass of financial instruments. Maggioncalda shows a financial advisory system that provides an asset allocation based on user input. Maggioncalda does not teach any filtering or financial instrument screening. Therefore, there is no suggestion or motivation to combine the teachings of Marshall and Maggioncalda. Moreover, Marshall teaches away from the use of two or three dimensional charts and, in fact, suggests that such charts are far inferior to the virtual reality environment.

The Office Action suggestion to use the teaching of Maggioncalda in combination with Marshall is clearly improperly based on the hindsight of Applicant's disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonic Inc. v. Aerosonic Corp., 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985). That is, since Marshall only has the capability of a single filter pass, there would be no motivation to provide a parameter criteria or limiter hit within the virtual reality environment. Nor is there any suggestion as to how this would be accomplished or how modification of the parameter would occur.

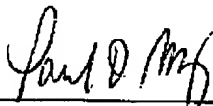
For the reasons set forth above, it is submitted that the rejection of claims 22, 23, 28, 29 and 43 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

It is respectfully requested for the reasons set forth above that the rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) be withdrawn, that claims 18-29 and 42-47 be allowed and that this application be passed to issue.

For the reasons set forth above, it is submitted that this amendment places the application in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and passed to issue. If this amendment is deemed to not place the application in condition for allowance, it is respectfully requested that it be entered for the purpose of appeal.

Respectfully Submitted,

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